

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:09 CR 23**

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|----------------------------------|---|--------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Vs. |) | ORDER |
| |) | |
| PERRY ROGER SHIPPY, |) | |
| |) | |
| Defendant. |) | |
| |) | |

THIS MATTER is before the court upon the defendant's *pro se* "Motion for Separate Trial" (129).

Because the defendant is currently represented by counsel, his *pro se* motion will be denied. United States v. D'Amario, 2008 WL 624768 at *1, 2008 U.S. App. LEXIS 5079 at *4 (3d Cir. 2008) (holding that district courts are not obligated to consider *pro se* motions from a defendant who is represented by counsel because "[t]he Constitution does not confer a right to proceed simultaneously by counsel and *pro se*"). The defendant is instructed to communicate with the court only through his attorney.

ORDER

IT IS, THEREFORE, ORDERED that the defendant's *pro se* "Motion for Separate Trial" (#129) is hereby **DENIED** without prejudice.

Signed: May 19, 2009

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

